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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FREDRIC ELLIOTT, Individually and On
Behalf of All Others Similarly Situated,

Plaintiff,

vs.

CHINA GREEN AGRICULTURE, INC.,
TAO LI, YING YANG, and KEN REN,

Defendants.

Case No.: 3:10-CV-00648-LRH-(RAM)

**THE RADER GROUP'S MOTION FOR
APPOINTMENT AS LEAD PLAINTIFF
AND APPROVAL OF CHOICE OF
COUNSEL; MEMORANDUM OF
POINTS AND AUTHORITIES IN
SUPPORT THEREOF**

CLASS ACTION

JUDGE: Hon. Larry R. Hicks

James Rader and James Greenshields (the “Rader Group” or “Movant”) will, and do, move this Court for an order granting the Movant’s Motion: (1) for appointment as Lead Plaintiff of the Class; and (2) for approval of the Movant’s selection of The Rosen Law Firm, P.A. as Lead Counsel and Levery & Associates Law, Chtd. as Liaison Counsel for the Class.

This Motion is brought pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 (“Exchange Act”), 15 U.S.C. § 78u-4(a)(3)(B), on the grounds (1) that Movant should be appointed Lead Plaintiff for the class of all purchasers of the securities of China Green Agriculture, Inc. (“China Green” or the “Company”) during the period between November 12, 2009 and September 1, 2010, inclusive (the “Class Period”) as the Movant has timely made the Motion and is the “most adequate plaintiff”; (2) that Movant meets the requirements of Rule 23 of the Federal Rules of Civil Procedure for the purposes of this Motion in that the Movant’s claims are typical of the other class members’ claims and Movant will fairly and adequately represent the class; and (3) that Movant’s selection of the Rosen Law Firm, P.A. as Lead Counsel and Levery & Associates Law, Chtd. as Liaison Counsel should be approved as the firms are well qualified and have extensive experience in cases of this type.

In support of this Motion, Movant files herewith a memorandum of points and authorities, the Declaration of Laurence Rosen, and a proposed order.

DATED: This 14th Day of December, 2010.

/s/ Patrick Levery
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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

James Rader and James Greenshields (the “Rader Group” or “Movant”) respectfully submit this memorandum of law in support of their motion for an Order, pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934 (the “Exchange Act”), as amended by the Private Securities Litigation Reform Act of 1995 (the “PSLRA”):

- (a) appointing the Rader Group as Lead Plaintiff for the class of all purchasers of common stock of China Green Agriculture, Inc. (“China Green” or the “Company”) during the period between November 12, 2009 and September 1, 2010, inclusive (the “Class Period”); and
- (b) approving the Rader Group’s selection of The Rosen Law Firm P.A. as Lead Counsel for the class, and Leverty & Associates Law, Chtd. as Liaison Counsel for the class.

II. BACKGROUND¹

Defendant China Green is a corporation incorporated under the laws of Nevada with headquarters in the Shaanxi province in the People’s Republic of China (“PRC”). During the Class Period China Green maintained executive offices at: 3rd Floor, Borough A, Block A, No. 181, South Taibai Road, Xi’an, Shaanxi Province, People’s Republic of China, 710065. China Green, together with its subsidiaries, engages in the research, development, manufacture, and distribution of humic acid based compound fertilizers in China.

On October 15, 2010, a law firm filed a class action complaint (the “Complaint”; Docket No. 1) in the above captioned-action against the Company and certain of its officers and directors for violations of the Sections 10(b) and 20(a) of the Exchange Act. On that same date, a law firm issued a PSLRA early notice

¹ The majority of the factual information and allegations detailed below are taken from the initial complaint filed in the above-captioned action on October 15, 2010 (Docket No. 1).

1 directs courts to consider any motion to serve as Lead Plaintiff filed by class members
 2 in response to a published notice of class action by the later of (i) 60 days after the
 3 date of publication, or (ii) as soon as practicable after the Court decides any pending
 4 motion to consolidate. 15 U.S.C. § 78u-4(a)(3)(B)(i) and (ii).

5 The PSLRA provides a “rebuttable presumption” that the most “adequate
 6 plaintiff” to serve as Lead Plaintiff is the “person or group of persons” that:

7 (aa) has either filed the complaint or made a motion in response to a
 8 notice . . .;

9 (bb) in the determination of the Court, has the largest financial interest in the
 10 relief sought by the class; and

11 (cc) otherwise satisfies the requirements of Rule 23 of the Federal Rules of
 12 Civil Procedure.

13 15 U.S.C. § 78u-4(a)(3)(B)(iii)(I); *Richardson v. TVIA, Inc.*, 2007 WL 1129344, at
 14 * 2 (N.D. Cal. Apr. 16, 2007); (citing *In re Cavanaugh*, 306 F.3d 726, 729-30 (9th
 15 Cir. 2002)).

16 As set forth below, Movant satisfies the above criteria and is the most adequate
 17 plaintiff and should be appointed as Lead Plaintiff.

18 **A. The Movant is Willing to Serve as Class Representative**

19 The Rader Group has made a timely motion in response to a PSLRA early
 20 notice. *See* Rosen Decl., Ex. 1. Additionally, as set forth in the PSLRA certifications
 21 of the members of the Rader Group, filed concurrently herewith, each member has
 22 reviewed the complaint, adopts the allegations therein, and is willing to serve as a
 23 representative of the class. *See* Rosen Decl. Ex. 2. Accordingly, the Rader Group
 24 satisfies the first requirement to serve as Lead Plaintiff for the class.

25 **B. The Movant Has The Largest Financial Interest in the Action**

26 The PSLRA requires a court to adopt a rebuttable presumption that “the most
 27 adequate plaintiff . . . is the person . . . that . . . has the largest financial interest in the
 28 relief sought by the class.” 15 U.S.C. § 78u-4(a)(3)(B)(iii); *Cavanaugh*, 306 F.3d at

730. While the PSLRA does not specify how to calculate the “largest financial interest”, the approximate losses suffered are the most determinative. *Richardson*, 2007 WL 1129344 at * 4 (citing cases). The financial interests of the members of the Rader Group are set forth below.

Mr. Rader purchased 3,650 shares of China Green common stock during the Class Period at a cost of \$59,947.00. Mr. Rader sold all of his shares for \$28,973.00, thereby suffering a loss of \$30,974.00. *See* Rosen Decl., Ex. 3.

Mr. Greenshields purchased 27,500 shares of China Green common stock during the Class Period at a cost of \$432,365.67. Mr. Greenshields sold 17,300 of these shares for \$269,598.13, and retained the remainder, thereby suffering a loss of \$73,925.54². *Id.*

With \$104,899.54 in total losses, the Rader Group is not aware of any other movant that has suffered greater losses in China Green securities during the Class Period. The Rader Group is small enough that coordinated decision making will not present difficulties. The SEC has noted, and numerous courts have held, that small groups whose members all have suffered substantial losses, such as the Rader Group, are suitable lead plaintiffs. *See e.g. In re Nature’s Sunshine Products, Inc.*, 2006 WL 2380965 (D. Utah Aug. 16, 2006) (appointing group of three unrelated investors lead plaintiff); *In re Tyco Int’l Ltd. Sec. Litig.*, 2000 WL 1513772, at *4 n.7 (D.N.H. Aug. 17, 2000); *In re The First Union Corp. Sec. Lit.*, 157 F. Supp.2d 638, 643 (W.D.N.C. 2000); *In re Baan Co. Sec. Litig.*, 186 F.R.D. 214, 217 (D.D.C.1999); *In re Universal Access, Inc., Sec. Lit.*, 209 F.R.D. 379, 384 (E.D. Tex. 2002); and *In re Oxford Health Plans, Inc. Sec. Lit.*, 182 F.R.D. 42, 49 (S.D.N.Y. 1998) (co-lead plaintiff group allows for broad representation and sharing of resources and experience).

² In determining losses for held shares, the Movant uses the average daily closing price of the Company’s common stock between the end of the Class Period and November 30, 2010—the 90 day lookback price, \$8.71. *See In re MicroStrategy, Inc. Secs. Litig.*, 110 F. Supp.2d 427, 436 n. 22 (E.D. Va. 2000) (applying PSLRA look-back period price to held shares); 15 U.S.C. §78u-4(e)(1).

Accordingly, the Rader Group satisfies the largest financial interest requirement to be appointed as Lead Plaintiff for the class.

C. The Movant Satisfies the Requirements of Rule 23 of the Federal Rules of Civil Procedure

The PSLRA further provides that, in addition to possessing the largest financial interest in the outcome of the litigation, the Lead Plaintiff must “otherwise satisfy the requirements of Rule 23 of the Federal Rules of Civil Procedure.” 15 U.S.C. §78u-4(a)(3)(B)(iii)(I)(cc). Federal Rule of Civil Procedure Rule 23(a) provides that a party may serve as a class representative if the following four requirements are satisfied:

- (1) the class is so numerous that joinder of all members is impracticable;
- (2) there are questions of law or fact common to the class,
- (3) the claims or defenses of the representative parties are typical of the claims or defenses of the class, and
- (4) the representative parties will fairly and adequately protect the interests of the class.

Fed. R. Civ. P. 23(a).

In making its determination that a movant satisfies the requirements of Rule 23, the Court need not raise its inquiry to the level required in ruling on a motion for class certification – a *prima facie* showing that the movant satisfies the requirements of Rule 23 is sufficient. *Cavanaugh*, 306 F.3d at 730-31. At the lead plaintiff stage, “[t]he typicality and adequacy requirements of Rule 23 are the main focus...” and “[e]xamination of the remaining requirements [of Rule 23] are deferred until the lead plaintiff moves for class certification.” *Richardson*, 2007 WL 1129344, at * 4 (citing *Cavanaugh*, 306 F.3d at 730)).

The Rader Group and each of its members fulfill all of the pertinent requirements of Rule 23. Each member shares substantially similar questions of law and fact with the members of the class and their claims are typical of the members of

1 the class. Each of the Rader Group members and all members of the class allege that
 2 Defendants violated the Exchange Act by publicly disseminating false and misleading
 3 financial statements about its business. The Rader Group and its members, as did all
 4 of the members of the Class, purchased China Green stock at prices artificially
 5 inflated by Defendants' misrepresentations and omissions and were damaged thereby.
 6 These shared claims also satisfy the requirement that the claims of the representative
 7 parties be typical of the claims of the class.

8 Thus, the close alignment of interests between Movant and other class
 9 members, as well as the Group's desire to prosecute this action on behalf of the class,
 10 provides ample reason to appoint the Rader Group as Lead Plaintiff.

11 **D. The Movant Will Fairly and Adequately Represent the**
 12 **Interests of the Class and Is Not Subject to Unique Defenses**

13 The presumption in favor of appointing Movant as Lead Plaintiff may be
 14 rebutted only upon proof "by a purported member of the plaintiffs' class" that the
 15 presumptively most adequate plaintiff:

- 16 (aa) will not fairly and adequately protect the interest of the class;
 17 or
- 17 (bb) is subject to unique defenses that render such plaintiff
 18 incapable of adequately representing the class.

18 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II).

19 Movant's ability and desire to fairly and adequately represent the class has
 20 been discussed in Section C, above. Movant is not aware of any unique defenses
 21 Defendants could raise against any one of them that would render them inadequate
 22 to represent the class. Accordingly, the Court should appoint the Rader Group as
 23 Lead Plaintiff for the class.

24 **IV. THE MOVANT'S SELECTION OF COUNSEL SHOULD BE**
 25 **APPROVED**

26 The PSLRA vests authority in the Lead Plaintiff to select and retain lead
 27 counsel, subject to the approval of the Court. 15 U.S.C. § 78u-4(a)(3)(B)(v). The
 28

1 Court should only interfere with Lead Plaintiff's selection when necessary "to protect
2 the interests of the class." 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II)(aa).

3 The Rader Group has selected The Rosen Law Firm as Lead Counsel and
4 Leverty & Associates Law as Liaison Counsel. The Rosen Law Firm has been
5 actively researching the class Plaintiffs' claims - interviewing potential witnesses,
6 reviewing financial and legal documents, seeking relevant data from third parties, and
7 gathering other information in support of the claims against the defendants.
8 Furthermore, the Rosen Law Firm and Leverty & Associates Law are experienced in
9 the area of securities litigation and class actions, and have successfully prosecuted
10 securities litigations and securities fraud class actions on behalf of investors. *See*
11 *Rosen Decl.*, Exs. 4 -5.

12 As a result of the firms' experience in litigation involving issues similar to
13 those raised in this action, Movant's counsel has the skill and knowledge that will
14 enable these two law firms to prosecute this action effectively and expeditiously.
15 Thus, the Court may be assured that by approving the Movant's selection of Lead
16 Counsel and Liaison Counsel, the members of the Class will receive the best legal
17 representation available.

18 **V. CONCLUSION**

19 For the foregoing reasons, the Movant respectfully requests the Court issue
20 an Order: (a) appointing the Rader Group as Lead Plaintiff of the class; (b)
21 approving The Rosen Law Firm, P.A. as Lead Counsel and Leverty & Associates
22 Law, Chtd. as Liaison Counsel; and (c) granting such other relief as the Court may
23 deem to be just and proper.

24 Dated: December 14, 2010

25 Respectfully submitted,

26 /s/ Patrick Leverty
27 Patrick R. Leverty
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[Proposed] Lead Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on December 14, 2010, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to counsel of record.

/S/ Patrick Leverty
Patrick R. Leverty